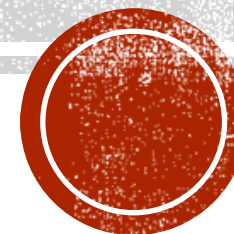


DETERMINATION OF DESCENT

The Right Choice for Oregon

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WHAT IS A DETERMINATION OF DESCENT

Simplified Probate

- File a Petition with the Court—No Will
- All heirs under intestate succession laws must be listed and provided notice
- Property must be listed
- Publication notice must be given in the local newspaper
- Creditors are barred, so they do not need to be notified
- A hearing is set about six weeks out to give people an opportunity to object
- If no objection, Judge signs the Order and Judgment distributing the property
- Probate finished



EXAMPLE

- Mother dies owning real estate in Klamath County
- She has 3 adult sons
- She has a Will, but it mirrors the intestate succession laws
- The 3 sons decide to wait 2 years after their mother's death to file a Determination of Descent instead of a traditional probate
- The Petition gets filed by the middle son 2 years and 1 day later
- The other 2 sons get notice, and a publication is placed in the local newspaper just like any other probate
- The Court sets a hearing for 6 weeks later



EXAMPLE, CONTINUED

- At the hearing, only the middle son's attorney shows up to the hearing
- No objection to the Petition is made by anyone at the hearing
- Court signs an Order and Judgment transferring the real property to the 3 sons in accordance with intestate succession laws
- The Judgment then gets filed with the local Recorder's Office to notify anyone wanting to know (i.e., title companies) about the current ownership
- Case closed
- The 3 Brothers can then sell it, buy each other out, rent it out, file a partition action, use it as a vacation home, turn into a campground, give it to a charity, or anything else they desire



WORKS FOR ANY TYPE OF PROPERTY

- Real Estate
- Bank Accounts
- Retirement Accounts
- Life Insurance Policies
- Cash
- Precious Metals
- Stocks and Bonds
- Personal Property
- Etc.



ADVANTAGES

- **Fast**
 - Whole process takes about 6 weeks
- **Cheap**
 - Most attorneys in Kansas charge about \$1,500.00 to do one, plus publication and filing fees
- **Easy**
 - A person could probably even do it without an attorney
- **Bars Creditors**
 - They have 2 years to make efforts to collect
- **Allows Heirs to Inherit More**
 - Due to creditors being barred and low administration costs
 - Reduces/Eliminates need for litigation, further reducing administration costs



COMMON CRITICISMS

- **Is This Fair to Creditors?**
 - Creditors still have the right to file a creditor's estate within 2 years of decedent's death
- **Do I Still Have to Pay Estate Taxes?**
 - Still have to comply with Oregon and Federal Estate Tax laws
- **Can I Discharge a Secured Debt Through This Process?**
 - This process will not discharge a secured debt
- **Can You Disinherit a Beneficiary Listed in a Will?**
 - This process cannot be used if the decedent's Will says something that is different from intestate succession (i.e., cannot sit on a Will to disinherit a step-sibling)



LIKELY OPPONENTS

- **Insurance Companies**
 - They will have to do more work to pursue subrogation claims
 - They will likely have to file more creditor estates
- **Credit Card Companies**
 - They will no longer be able to rely upon small town probate lawyers to notify them that one of their debtors has died
 - They will have 2 years to take action
- **Probate Lawyers**
 - Going to impact their bottom line
 - Process is so easy, so fast, and so cheap
 - As a result, they will be less in demand



ANY QUESTIONS?

